

1 HON. JUDGE MARSHA J. PECHMAN
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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON AT TACOMA**

9 RANDOLFF SCOTT RUFFELL
10 WESTOVER,

11 Plaintiff,

12 v.

13 LIFE INSURANCE COMPANY OF
14 NORTH AMERICA,

15 Defendant.

No. 3:20-cv-05606-MJP

STIPULATED MOTION TO FILE
THE ADMINISTRATIVE RECORD
UNDER SEAL

NOTE ON MOTION CALENDAR:
October 16, 2020

16 The parties stipulate as follows:

17 1. This matter involves plaintiff Westover's claim for short-term and long-term
18 disability benefits under ERISA-governed insurance policies issued by defendant LINA. The
19 plaintiff contends that certain medical conditions render him disabled and entitled to benefits
20 under the terms of the LINA insurance policies.
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1 2. The administrative record produced by LINA¹ in this ERISA matter is around
2 3,100 pages.

3 3. The administrative record is replete with plaintiff's confidential personal
4 information and consists mainly of plaintiff's medical records and analysis of, and/or
5 commentary about, plaintiff's medical records.

6 4. Under LCR (5)(g)(3), undersigned counsel certify they have conferred regarding
7 the filing of the administrative record in this matter under seal. Given the volume of the file
8 materials, and the nature of the contents of the file, it is impracticable to redact the large volume
9 of material that would be necessary to redact if this record is not filed under seal. There is no
10 practical way to redact the relevant medical information at issue in this lawsuit, which
11 comprises the bulk of the record.

12 5. The parties agree that plaintiff has a legitimate purpose in keeping plaintiff's
13 private personal information and medical records private, and there is no known reason why this
14 information should be disseminated to the public and no harm to any party will be visited if the
15 Court grants this motion.

16 6. The parties do not assert that isolated citations to specific medical information,
17 e.g., as might be necessary to support or oppose dispositive motions, would necessarily merit
18 filing under seal, only that the voluminous medical history contained in the administrative
19 record, some of which might be irrelevant to the present dispute, should be shielded from public
20 disclosure.

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24 1 By making this motion, plaintiff does not concede that LINA's proffered administrative record is
25 complete.

1 7. The “need to protect medical privacy qualifies in general as a ‘compelling
 2 reason’” to protect medical records and to file them under seal. *Karpenski v. Am. Gen. Life*
 3 *Companies, LLC*, No. 2:12-cv-01569RSM, 2013 WL 5588312, at *1 (W.D. Wash. Oct. 9, 2013)
 4 (quoting LCR 5(g) and *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
 5 2006)). The need to protect medical privacy qualifies as a “compelling reason” to grant a motion
 6 to seal even under the heightened “compelling reasons” standard applicable in the context of
 7 summary judgment motions. *Id.* *Karpenski* recognized that even if a plaintiff has put their
 8 health at issue in a lawsuit, they nonetheless remain entitled to the protection of sensitive
 9 medical information. *Id.*; see also *Macon v. United Parcel Serv., Inc.*, No. C12-260 RAJ, 2013
 10 WL 951013, at *5 (W.D. Wash. Mar. 12, 2013) (granting unopposed motion to seal medical
 11 records even where plaintiff failed to comply with LCR 5(g) given the “private nature of the
 12 documents at issue”).

14 8. Accordingly, the parties ask this Court to allow for the filing of the
 15 administrative record under seal. A proposed order accompanies this motion. The undersigned
 16 counsel certify the above facts are true to the best of their knowledge. The parties present the
 17 below proposed order granting the above-requested relief.

19 RESPECTFULLY SUBMITTED: October 16, 2020

20 For Plaintiff Westover:

21 RUIZ & SMART PLAINTIFF
 22 LITIGATION PLLC

23 By /s/ McKean J. Evans

24 McKean J. Evans, WSBA #52750

25 Isaac Ruiz, WSBA #35237

For Defendant LINA:

LANE POWELL PC

23 By s/ Stephania Denton (via email consent)

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15 STIPULATED MOTION TO FILE THE
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18 (No. 3:20-cv-05606-MJP) - 4

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ORDER

IT IS SO ORDERED. The Court GRANTS the parties' joint stipulated motion to file the administrative record under seal and ORDERS that the clerk file the administrative record under seal in this matter.

DATED this 16th day of October, 2020.

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Honorable Marsha J. Pechman
United States District Judge

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